

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NATIONAL CHICKEN COUNCIL, *et al.*,

Plaintiffs,

v.

GARY WASHINGTON, in his official
capacity as ACTING SECRETARY OF
AGRICULTURE, *et al.*,

Defendants.

No. 4:24-cv-03786

**DEFENDANTS' UNOPPOSED MOTION FOR LEAVE
TO FILE INDEX OF THE ADMINISTRATIVE RECORD, OR ALTERNATIVELY,
MANUALLY FILE THE ADMINISTRATIVE RECORD**

This Court has ordered Defendants to produce the certified administrative record to Plaintiffs on or before February 12, 2025. *See* ECF No. 30. Absent the Court's grant of Defendants' pending stay motion, Defendants intend to electronically produce the entire administrative record to Plaintiffs in accordance with that order.

Defendants also want to ensure they are providing the Court with all materials necessary to decide the parties' forthcoming cross motions for summary judgment. The administrative record in this matter, however, is extremely voluminous, and includes over 250,000 pages, or approximately 3,300 megabytes of material. This District's CM/ECF accepts files of up to 35 megabytes. *See* District Court Electronic Filing FAQ, <https://www.txs.uscourts.gov/page/district-court-electronic-filing-faq> (visited Feb. 12, 2025). Therefore, electronically filing the administrative record would require dividing the record into approximately one hundred separate files and uploading each file individually, which would be a highly burdensome task.

Accordingly, Defendants respectfully request leave to file on the docket a complete index of

the materials contained in the administrative record along with the agency's certification of the administrative record. Because under the current briefing schedule order, Plaintiffs are to file their dispositive motion first, Defendants propose that the index and certification be filed fourteen (14) days prior to Plaintiffs' deadline to file their opening brief. Thereafter, Defendants propose that counsel for both parties provide the Court with appendices containing those portions of the administrative record that are cited or otherwise relied upon in their summary judgment briefing.¹ Defendants propose those materials be filed fourteen days after the filing of Defendants' Reply in Support of Their Cross-Motion for Summary Judgment, which is the final brief in this briefing cycle.

Alternatively, Defendants respectfully request leave to file the complete administrative record manually, rather than filing it electronically through the CM/ECF system. If granted leave to file the administrative record manually, Defendants will provide an electronic copy of the administrative record on physical storage media in the form of a USB drive to the Clerk's Office to maintain for public access. If the Court prefers, Defendants can also provide a courtesy electronic copy of the administrative record to chambers via whatever mechanism the Court directs. The relief requested will not affect Plaintiffs' access to the administrative record, as Defendants are electronically producing the entire administrative record to Plaintiffs' counsel through a file-sharing system. Defendants would also propose to manually file the administrative record fourteen (14) days before Plaintiffs' deadline to file their opening brief.

Counsel for the Defendants has conferred with Counsel for the Plaintiffs, who do not oppose either the primary or alternative requested relief.

¹ This approach closely tracks those followed by the United States District Court for the District of Columbia as well as the United States Court of Appeals for the Fifth Circuit. *See* D.D.C. Local Rule 7(n); Fed. R. App. Proc. 17(b)(1)(B).

Dated: February 12, 2025

Respectfully submitted,

BRETT A. SHUMATE
Acting Assistant Attorney General

JOSEPH E. BORSON
Assistant Branch Director

/s/ Taylor Pitz
TAYLOR PITZ (CA Bar No. 332080)
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Phone: (202) 305-5200
Email: Taylor.N.Pitz@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

On February 12, 2025, I electronically submitted the foregoing document with the Clerk of Court for the U.S. District Court, Southern District of Texas, using the Court's electronic case filing system. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Taylor Pittz
TAYLOR PITZ
Trial Attorney
U.S. Department of Justice